

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

Your Committee on Public Policy, to which was referred House Bill 1224, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 2, between lines 30 and 31, begin a new paragraph and insert:
- 2 "SECTION 3. IC 4-33-2-19 IS ADDED TO THE INDIANA CODE
- 3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 19. "Trustee" means a**
- 5 **person granted the authority under IC 4-33-21 to conduct**
- 6 **gambling operations on a riverboat for the mutual benefit of:**
- 7 **(1) the state; and**
- 8 **(2) the owner of the riverboat.**
- 9 SECTION 4. IC 4-33-4-3, AS AMENDED BY P.L.170-2005,
- 10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3. (a) The commission
- 12 shall do the following:
- 13 (1) Adopt rules that the commission determines necessary to
- 14 protect or enhance the following:
- 15 (A) The credibility and integrity of gambling operations

- 1 authorized by this article.
- 2 (B) The regulatory process provided in this article.
- 3 (2) Conduct all hearings concerning civil violations of this article.
- 4 (3) Provide for the establishment and collection of license fees
- 5 and taxes imposed under this article.
- 6 (4) Deposit the license fees and taxes in the state gaming fund
- 7 established by IC 4-33-13.
- 8 (5) Levy and collect penalties for noncriminal violations of this
- 9 article.
- 10 (6) Deposit the penalties in the state gaming fund established by
- 11 IC 4-33-13.
- 12 (7) Be present through the commission's gaming agents during the
- 13 time gambling operations are conducted on a riverboat to do the
- 14 following:
 - 15 (A) Certify the revenue received by a riverboat.
 - 16 (B) Receive complaints from the public.
 - 17 (C) Conduct other investigations into the conduct of the
 - 18 gambling games and the maintenance of the equipment that
 - 19 the commission considers necessary and proper.
- 20 (8) Adopt emergency rules under IC 4-22-2-37.1 if the
- 21 commission determines that:
 - 22 (A) the need for a rule is so immediate and substantial that
 - 23 rulemaking procedures under IC 4-22-2-13 through
 - 24 IC 4-22-2-36 are inadequate to address the need; and
 - 25 (B) an emergency rule is likely to address the need.
- 26 (9) Adopt rules to establish and implement a voluntary exclusion
- 27 program that meets the requirements of subsection (c).
- 28 **(10) Establish by resolution the requirements for a power of**
- 29 **attorney submitted under IC 4-33-6-2(c), IC 4-33-6-22,**
- 30 **IC 4-33-6.5-2(c), or IC 4-33-6.5-16.**
- 31 (b) The commission shall begin rulemaking procedures under
- 32 IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted
- 33 under subsection (a)(8) not later than thirty (30) days after the adoption
- 34 of the emergency rule under subsection (a)(8).
- 35 (c) Rules adopted under subsection (a)(9) must provide the
- 36 following:
 - 37 (1) Except as provided by rule of the commission, a person who
 - 38 participates in the voluntary exclusion program agrees to refrain

1 from entering a riverboat or other facility under the jurisdiction of
2 the commission.

3 (2) That the name of a person participating in the program will be
4 included on a list of persons excluded from all facilities under the
5 jurisdiction of the commission.

6 (3) Except as provided by rule of the commission, a person who
7 participates in the voluntary exclusion program may not petition
8 the commission for readmittance to a facility under the
9 jurisdiction of the commission.

10 (4) That the list of patrons entering the voluntary exclusion
11 program and the personal information of the participants are
12 confidential and may only be disseminated by the commission to
13 the owner or operator of a facility under the jurisdiction of the
14 commission for purposes of enforcement and to other entities,
15 upon request by the participant and agreement by the commission.

16 (5) That an owner of a facility under the jurisdiction of the
17 commission shall make all reasonable attempts as determined by
18 the commission to cease all direct marketing efforts to a person
19 participating in the program.

20 (6) That an owner of a facility under the jurisdiction of the
21 commission may not cash the check of a person participating in
22 the program or extend credit to the person in any manner.
23 However, the voluntary exclusion program does not preclude an
24 owner from seeking the payment of a debt accrued by a person
25 before entering the program."

26 Page 4, between lines 3 and 4, begin a new paragraph and insert:

27 "SECTION 7. IC 4-33-4-25 IS ADDED TO THE INDIANA CODE
28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
29 JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 25. (a) The commission**
30 **may designate a trustee if a person required to designate a trustee**
31 **under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or**
32 **IC 4-33-6.5-16 fails to designate a trustee before the fifth day**
33 **preceding a commission meeting scheduled for commission action**
34 **on:**

35 (1) the person's application for an owner's license or an
36 operating agent's contract; or

37 (2) the renewal of the person's owner's license or operating
38 agent contract.

(b) The commission may impose a civil penalty upon a person who fails to designate a trustee before the deadline specified in subsection (a).

SECTION 8. IC 4-33-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) A person applying for an owner's license under this chapter must pay a nonrefundable application fee to the commission. The commission shall determine the amount of the application fee.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) An applicant who applies after December 31, 2007, shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

~~(c)~~ **(d)** The commission shall review the applications for an owner's license under this chapter and shall inform each applicant of the commission's decision concerning the issuance of the owner's license.

~~(d)~~ **(e)** The costs of investigating an applicant for an owner's license under this chapter shall be paid from the application fee paid by the applicant.

~~(e)~~ **(f)** An applicant for an owner's license under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

SECTION 9. IC 4-33-6-22 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 22. (a) This section applies to the renewal of an owner's license occurring after December 31, 2007.**

(b) The commission may not renew an owner's license unless the commission:

(1) receives a proposed power of attorney from the license owner;

(2) approves the trustee designated by the power of attorney; and

(3) approves the powers delegated to the trustee by the power of attorney.

(c) A person who wishes to renew an owner's license shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

(d) A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

SECTION 10. IC 4-33-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]:

Sec. 2. (a) A person, including a person who holds or has an interest in an owner's license issued under this article, may file an application with the commission to serve as an operating agent under this chapter. An applicant must pay a nonrefundable application fee to the commission in an amount to be determined by the commission.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) An applicant who applies after December 31, 2007, shall

1 submit for the approval of the commission a written power of
 2 attorney designating the person who may serve as the person's
 3 trustee. The document submitted under this subsection must:

- 4 (1) be executed in the manner required by IC 30-5;
- 5 (2) describe the powers that may be delegated to the proposed
- 6 trustee; and
- 7 (3) conform with the requirements established by the
- 8 commission under IC 4-33-4-3(a)(10).

9 A person may not exercise any powers delegated under a power of
 10 attorney submitted under this section unless the power of attorney
 11 is approved by the commission.

12 ~~(c)~~ (d) The commission shall review the applications filed under this
 13 chapter and shall inform each applicant of the commission's decision.

14 ~~(d)~~ (e) The costs of investigating an applicant to serve as an
 15 operating agent under this chapter shall be paid from the application
 16 fee paid by the applicant.

17 ~~(e)~~ (f) An applicant to serve as an operating agent under this chapter
 18 must pay all additional costs that are:

- 19 (1) associated with the investigation of the applicant; and
- 20 (2) greater than the amount of the application fee paid by the
- 21 applicant.

22 SECTION 11. IC 4-33-6.5-16 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 16. (a)**
 25 **The person holding an operating agent contract on January 1,**
 26 **2008, shall submit for the approval of the commission a written**
 27 **power of attorney designating the person who may serve as the**
 28 **person's trustee. The document submitted under this subsection**
 29 **must:**

- 30 (1) be executed in the manner required by IC 30-5;
- 31 (2) describe the powers that may be delegated to the proposed
- 32 trustee; and
- 33 (3) conform with the requirements established by the
- 34 commission under IC 4-33-4-3(a)(10).

35 (b) A person may not exercise any powers delegated under a
 36 power of attorney submitted under this section unless the power of
 37 attorney is approved by the commission.

38 SECTION 12. IC 4-33-9-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]:

Sec. 1. Gambling may be conducted **on a riverboat** by:

- (1) a licensed ~~owners or owner~~;
- (2) an operating agent; ~~on riverboats~~; or
- (3) a trustee in accordance with IC 4-33-21.

SECTION 13. IC 4-33-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]:

Chapter 21. Riverboat Operations Temporarily Conducted by a Trustee

Sec. 1. This chapter applies only to a trustee acting under the authority of:

- (1) a written power of attorney approved by the commission under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16; and
- (2) a resolution made by the commission authorizing the trustee to commence gambling operations under this chapter.

Sec. 2. (a) IC 30-5 applies to a trustee exercising powers under this chapter.

(b) For purposes of IC 30-5, a trustee is an attorney in fact.

Sec. 3. (a) Subject to subsection (b), a trustee may temporarily conduct gambling operations on a riverboat owned by the person who designated the trustee in a written power of attorney approved by the commission under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16 if any of the following occurs:

- (1) The commission revokes the owner's license or operating agent contract.
- (2) The commission declines to renew the owner's license or operating agent contract.
- (3) A proposed transferee is denied an owner's license under this article when attempting to purchase the riverboat and an owner's license, but the person who attempted to sell the riverboat is unable to retain ownership of the riverboat under the terms of the transaction that is otherwise completed.
- (4) A proposed transferee is denied an operating agent contract under this article when attempting to purchase the riverboat and the operating agent contract, but the person who attempted to sell the riverboat is unable to retain

1 ownership of the riverboat under the terms of the transaction
2 that is otherwise completed.

3 (b) A trustee may not exercise any power delegated to the
4 trustee until the commission adopts a resolution authorizing the
5 trustee to commence gambling operations under this chapter.

6 (c) A power of attorney designating a trustee to conduct
7 gambling operations on a riverboat is effective on the date that the
8 commission adopts a resolution authorizing the trustee to
9 commence gambling operations under this chapter. The power of
10 attorney remains in effect until the date that the trusteeship
11 established by the operation of the power of attorney is terminated
12 by resolution of the commission.

13 Sec. 4. A trustee that conducts gambling operations on a
14 riverboat:

- 15 (1) must conduct the gambling operations within the same
- 16 standards for character, reputation, and financial integrity
- 17 that are imposed upon a licensed owner by this article; and
- 18 (2) is charged with all the duties imposed upon a licensed
- 19 owner under this article.

20 Sec. 5. (a) A trustee acting under the authority of this chapter
21 must fulfill the trustee's duties as a fiduciary for the owner of the
22 riverboat. In addition, the trustee shall consider the effect of the
23 trustee's actions upon:

- 24 (1) the amount of taxes remitted by the trustee under
- 25 IC 4-33-12 and IC 4-33-13;
- 26 (2) the riverboat's dock city or county;
- 27 (3) the riverboat employees; and
- 28 (4) the creditors of the owner of the riverboat.

29 (b) In balancing the interests described in subsection (a), a
30 trustee shall conduct gambling operations on the riverboat in a
31 manner that enhances the credibility and integrity of riverboat
32 gambling in Indiana while minimizing disruptions to tax revenues,
33 incentive payments, employment, and credit obligations.

34 Sec. 6. (a) A person who directly or indirectly owns a riverboat
35 that is the subject of a resolution described in section 3(b) of this
36 chapter has one hundred eighty (180) days after the date on which
37 the commission adopts the resolution to sell the riverboat (and its
38 related properties described in section 7 of this chapter) to another

1 **person that:**

2 (1) satisfies the requirements of this article for obtaining an
3 owner's license; and

4 (2) is approved by the commission.

5 (b) If the person is unable to sell the riverboat (and its related
6 properties described in section 7 of this chapter) in the time
7 required by subsection (a), the trustee may take any action
8 necessary to sell the properties to another person that:

9 (1) satisfies the requirements of this article for obtaining an
10 owner's license; and

11 (2) is approved by the commission.

12 **Sec. 7. A trustee may conduct the operations of any hotel,**
13 **restaurant, golf course, or other amenity related to the riverboat**
14 **operation that is the subject of a resolution described in section**
15 **3(b) of this chapter if the power to conduct the operation is**
16 **delegated to the trustee in the power of attorney designating the**
17 **trustee.**

18 **Sec. 8. A trustee is entitled to reasonable compensation for**
19 **carrying out the duties imposed upon the trustee under this**
20 **chapter. The trustee's compensation must be:**

21 (1) approved by the commission; and

22 (2) paid by the owner of the riverboat that is the subject of a
23 resolution described in section 3(b) of this chapter.".

24 Page 4, line 10, delete "refund" and insert "**deposit**".

25 Page 4, line 11, delete "." and insert "**into the property tax**
26 **reduction trust fund established by IC 4-35-8-2.**".

27 Renumber all SECTIONS consecutively.

(Reference is to HB 1224 as introduced.)

and when so amended that said bill do pass.

Representative Van Haaften